

Confirmation Copy

- 13 position of the distal region of the positioning mechanism, the distal region
14 having means for controlling the distal end of the prosthesis in cooperation
15 with the second member.

Cancel withdrawn claims 43-63 without prejudice

Remarks

In the final Office action of November 24, 1999, Paper No. 12, claims 1-63 are pending of which claims 12-17 and 43-63 are withdrawn from consideration. Claims 24-42 are allowed, and claims 1-11 and 18-23 are rejected. In particular, claims 1-11 and 18-23 are rejected under 35 USC 112, second paragraph, as being indefinite. Claims 1 and 9 have been amended to correct the antecedent basis problem noted by the Examiner. Claim 9 is also being amended to correct a typographical error. In view thereof, applicants request that the rejection of claims 1 and 9, as amended herein, and claims 2-8, 10, 11 and 18-23 under 35 USC 112, second paragraph, be withdrawn.

Applicants traverse the Examiner's conclusion that applicants' previous amendment necessitated the new ground of rejection presented in this Office action. Applicants previously submitted amendment had no bearing or impact on the indefiniteness that the Examiner now raises under 35 USC 112, second paragraph. The rejection under 35 USC 112, second paragraph, is a new ground of rejection being raised for the first time by the Examiner in this Office action of which applicants' previously submitted amendment had no bearing or impact thereon. In view thereof, making this action final is improper, and it is requested that the finality of this Office action be withdrawn.

In addition, claims 1-4 and 6-8 are rejected under 35 USC 102(e) as being anticipated by van der Burg (6,352,553). Claim 1 has further been amended to indicate that the second control member independent of the first control member is for controlling at least a longitudinal position of the distal portion of the

prosthesis, which clearly distinguishes the claim over van der Burg. The Examiner has characterized loops 308 of van der Burg as comprising a second control member controlling at least the longitudinal position of the prosthesis as depicted in Figs. 4A-C of van der Burg. Applicant traverses the Examiner's characterization that loops 308 of van der Burg control at least the longitudinal position of the prosthesis as claimed in applicant's invention. In Figs. 4A and 4B, tether wire 306 was characterized by the Examiner as being a first control member. However, Figs. 4A and 4B along with the description in column 9, lines 24-47, indicate that tether wire 306 extends through loops 308. The rest of the specification does not indicate what comprises loops 308. To further confuse the issue, the specification in column 2, lines 25-31, indicates that stent-graft 300 is folded and constrained by a stent tether or slip line configuration 308. Eyelets 324 and 326 are disclosed in Figs. 1 and 2 and discussed in column 10. These eyelets may be loops 308, but such is not disclosed in the specification. Assuming such, loops 308 or eyelets 324 and 326 control the radial or lateral position of the prosthesis not the longitudinal position of the prosthesis as claimed in applicant's invention. Furthermore, loops 308 are clearly not independent of tether wire 306 as now claimed in independent 1, as amended herein. This independent action of the first and second control members was discussed and included in independent claim 9 with respect to previously cited Quiachon (5,628,783). As a result of this independence between the first and second control members, the rejection of independent claim 9 under 35 USC 102(e) was withdrawn by the Examiner. Thus, the independence between the first and second control members should not require any further consideration or searching on the part of the Examiner. In view thereof, applicants submit that independent claim 1, as amended herein, and dependent claims 2-4 and 6-8 are not identically disclosed by van der Burg, and it is requested that the rejection of these claims under 35 USC 102(e) as being anticipated by van der Burg, be withdrawn.

To put all the claims of this application in a condition for allowance, applicants cancel previously withdrawn claims 43-63. Assuming allowance of independent claim 9, as amended herein, applicants request the consideration of

previously withdrawn claims 12-17, which are all dependent upon independent claim 9, as amended herein.

In the previous Office action of April 24, 2002, Paper No. 8, the drawings were objected to for several reasons. In response thereto, red-ink corrections to Figs. 8 and 9 were submitted for the Examiner's approval. In this Office action, there is no indication whether the previously submitted drawing corrections were approved or disapproved by the Examiner. The applicants again request approval of the previously submitted red-ink corrections with respect to Figs. 8 and 9.

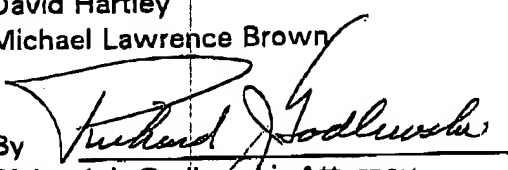
Applicants submit the enclosed Petition and Fee for a One-month Extension of Time to respond to this Office action.

The reexamination and reconsideration of this application is respectfully requested, and it is further requested that the application be passed to issue.

Although the foregoing discussion is believed to be dispositive of the issues in this case, applicants' attorney requests a telephone interview with the Examiner to further discuss any unresolved issues remaining after the Examiner's consideration of this amendment.

Respectfully submitted,

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Enclosures:

Marked-up copy of amended claims (1 page)
Petition and Fee for Extension of Time (2)

Serial No.: 09/449,270

MARKED-UP COPY OF AMENDED CLAIMS

1 1. (Thrice amended) An introducer for positioning an expandable endovascular
2 prosthesis in a lumen of a patient, the prosthesis having a proximal portion and a
3 distal portion, the introducer comprising:
4 a prosthesis positioning mechanism selectively releasable from the prosthesis
5 when the prosthesis is positioned at a desired site in the lumen of a patient;
6 a first control member separable from the prosthesis positioning mechanism,
7 retaining the prosthesis positioning mechanism with the proximal portion of the
8 prosthesis, and controlling at least [the] a longitudinal position of the proximal
9 portion of the prosthesis; and
10 a second control member independent of the first control member controlling
11 at least [the] a longitudinal position of the distal portion of the prosthesis.

1 9. (Thrice amended) An endovascular arrangement for positioning an expandable
2 prosthesis at a desired location in a lumen of a patient, said arrangement
3 comprising a control section to be maintained external to the patient, and a
4 prosthesis positioning mechanism controllable by the control section for moving and
5 manipulating the prosthesis to a desired location in the lumen, wherein a first
6 member extends from the control section to a proximal region of the positioning
7 mechanism and controls [the] longitudinal and rotational position of the proximal
8 region of the positioning mechanism, the proximal region of the positioning
9 mechanism having means for controlling the proximal end of the prosthesis,
10 wherein a second member extends from the control section to a distal region of the
11 positioning mechanism and independent of the first member controls the
12 longitudinal and [rotation] rotational position of the distal region of the positioning
13 mechanism, the distal region having means for controlling the distal end of the
14 prosthesis in cooperation with the second member.